

ADMINISTRATIVE ORDER 2020-07

**RE: AMENDMENT TO DISTRICT COURT EVICTION PROTOCOL
RELATIVE ONLY TO EVICTION MATTERS FOR NON-PAYMENT OF RENT**

Effective March 15, 2021, limited Challenges by Landlords to Declarations filed by Tenants may be scheduled for hearing under the following protocol:

GENERAL

- Challenges will be limited to cross-examination or presentation of other evidence on the veracity of the following assertions:
 1. Loss of income, resulting in inability to pay full rent.
 2. Application for a Rental Assistance Program.
 3. Good faith efforts by Tenant to communicate with Landlord and to make timely partial payments.
- Landlord must present a good faith basis to Challenge the Declaration.
- The Burden of Proof rests with the Landlord to prove the lack of veracity by a preponderance of the evidence.
- This process is limited to District Court procedure and is in addition to, but not in lieu of any Federal Court remedies identified in the CDC Order.
- If a Challenge is successful, the Court will impose an **automatic stay of execution for 30 days** to allow Tenant time to find alternate housing. This stay may be extended by the Court upon a showing of good cause.
- No Execution can issue in a case where a Declaration has been filed until the expiration of the moratorium, **unless** a Challenge to the Declaration has been successful.

BIFURCATED HEARINGS

- Eviction Hearings will be scheduled in accordance with prior Standing Orders.
- Challenges to Declarations will be scheduled for hearing **only** after a judgment enters.
- New language has been added to the Hearing Notice, advising Tenant that they may be cross-examined on the Declaration and advising both parties of their need to appear with any evidence they intend to offer.
- Appeal period runs 5 days from the date of Entry of Judgment. If a case is appealed, any Challenge Hearing scheduled on a Declaration will be cancelled as jurisdiction on appeal rests with the Superior Court.

MOTIONS TO CHALLENGE

- Motions must be in writing and must set forth in writing a good faith basis for the Challenge.
- Upon receipt of a Motion and after Judgment enters, the Court will schedule a hearing. All parties should bring any evidence to the hearing which they intend to offer at the hearing. Continuances for introduction of additional evidence may not be routinely granted.
- Time slots will be reserved for Challenges and the Court will make every effort to schedule these Challenges expeditiously.
- If Defendant fails to appear at Hearing on Challenge of Declaration, the Challenge will be heard in Defendant's absence, but Landlord must still meet its Burden of Proof.
- If Challenge is successful, the Court will enter a minimum 30 day stay of Execution.

- If a Challenge is not successful, the Execution will be stayed until expiration of the moratorium.

STIPULATED JUDGMENTS

- Regardless of non-compliance with a stipulation, if a Declaration has been filed, no Execution will issue unless there is a successful Challenge to the Declaration. Without a successful Challenge, no Execution will issue in a Non-Payment case until the expiration of the moratorium.

MOTIONS TO STAY & MOTIONS TO RECONSIDER

- Upon a showing of good cause, excusable neglect, or a change of circumstances, Motions to Stay and Motions to Reconsider may be filed. The basis must be set forth in the motion. After Judicial Review, the matter may be assigned by the Court for hearing.

Motions to Stay –

- If an ex parte Motion to Stay is granted, the Court will assign the Motion for hearing with notice.
- If a Motion to Stay is successful, Execution will be stayed until further order of the Court or until the expiration of the Moratorium.

Motions to Reconsider –

- Upon receipt of a Motion to Reconsider, the Clerk's Office will set it down for Judicial Review.
- If a good faith basis is established, the Court will mail a Notice of Hearing to all parties.

Electronic Filing of Motions –

- The motions indicated below are to be filed electronically in the Court’s Odyssey Electronic Filing System (OFS) using the following events:
 - **Motion to Stay**
 - **Motion to Reconsider**
 - **Motion on Challenge of Declaration**

Entered as an Order of this Court on this 19th day of February 2021.

Enter:

By Order:

/s/

/s/

Jeanne E. LaFazia
Chief Judge

Stephen Waluk
Administrator